IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Mahendra Kumar & Ors. Vs. State of Raj. & Anr.

S.B.CR. Revision Petition NO.882/2003

Date of Order : 4.1.2005

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Shambhoo Singh, for the petitioners.
Mr.Pradeep Shah, for respondent No.2.
Mr.J.P.S.Choudhary,P.P.

BY THE COURT:-

Heard learned counsel for the petitioners, Public Prosecutor and the counsel appearing for the complainant. I have perused the order impugned dt. 27.8.2003 passed by the Judicial Magistrate, Pindwara (for short `the trial court') whereby the trial court took the cognizance of offences under sections 447 I.P.C. and 3(1)(x)(5) of S.C. and S.T. (Prevention of Atrocities) Act, 1989 (for short `the Act').

On a report lodged by complainant Smt. Fancy Devi against the present petitioners, the police investigated the matter and filed the negative final report. However, the complainant and her witnesses namely Devi Lal C.W.2 and Dev

Kumar C.W.3 were examined by the trial court on a protest petition filed by the complainant. From perusal of the material placed before the trial court, the trial court came to the conclusion that police has not investigated the matter on certain material points on which the report was lodged. However, from perusal of the statement of the witnesses recorded by the trial court, the trial court prima facie came to the conclusion that there is a sufficient ground to proceed against the petitioners for the offences noticed above and took the cognizance, and issued process.

It is settled law that investigation is a domain of the police but the Magistrate is empowered to take cognizance even on a negative final report submitted by the police. Taking cognizance of offence is an exclusive domain of a Magistrate and at the time of taking cognizance, it is not required to decide as to whether ultimately the accused would be convicted or not as that is to be seen at the trial stage.

In the circumstances, therefore, I do not find any error in the order impugned. The petition lacks merit and it is dismissed accordingly. Stay order dt. 17.10.2003 is vacated. Stay petition is also dismissed.

(H.R.PANWAR),J.

m.asif/-